

Senate File 2299 - Reprinted

SENATE FILE 2299
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SF 2103)

(As Amended and Passed by the Senate March 11, 2014)

A BILL FOR

1 An Act relating to Iowa's operating-while-intoxicated law and
2 license revocations, temporary restricted licenses, and
3 ignition interlock devices, and including applicability
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321J.2, subsection 3, paragraph c,
2 unnumbered paragraph 1, Code 2014, is amended to read as
3 follows:

4 Assessment of a fine of one thousand two hundred fifty
5 dollars. However, ~~in the discretion of the court,~~ if no
6 personal ~~or property~~ injury has resulted from the defendant's
7 actions, the court ~~may~~ shall waive ~~up to~~ six hundred
8 twenty-five dollars of the fine when the defendant presents to
9 the court ~~at the end of the minimum period of ineligibility~~
10 a temporary restricted license issued pursuant to section
11 321J.20.

12 Sec. 2. Section 321J.2, subsection 3, paragraph d, Code
13 2014, is amended by striking the paragraph.

14 Sec. 3. Section 321J.2, subsection 4, paragraph c, Code
15 2014, is amended by striking the paragraph.

16 Sec. 4. Section 321J.2, subsection 5, paragraph c, Code
17 2014, is amended by striking the paragraph.

18 Sec. 5. Section 321J.4, Code 2014, is amended by striking
19 the section and inserting in lieu thereof the following:

20 **321J.4 Revocation of license — ignition interlock devices —**
21 **conditional temporary restricted license.**

22 1. *Revocation.* If a defendant is convicted of a violation
23 of section 321J.2, the defendant's driver's license or
24 nonresident operating privileges shall be revoked as follows:

25 a. *First offense.* If the defendant has had no previous
26 conviction or revocation under this chapter and the defendant's
27 driver's license or nonresident operating privilege has not
28 been revoked under section 321J.9 or 321J.12 for the occurrence
29 from which the arrest arose, the department shall revoke the
30 defendant's driver's license or nonresident operating privilege
31 for the following periods of time:

32 (1) Test result. One hundred eighty days if the defendant
33 submitted to chemical testing.

34 (2) Refusal to submit. One year if the defendant refused
35 to submit to chemical testing.

1 *b. Second offense.* If the defendant has had a previous
2 conviction or revocation under this chapter and the defendant's
3 driver's license or nonresident operating privilege has not
4 been revoked under section 321J.9 or 321J.12 for the occurrence
5 from which the arrest arose, the department shall revoke the
6 defendant's driver's license or nonresident operating privilege
7 for the following periods of time:

8 (1) Test result. One year if the defendant submitted to
9 chemical testing.

10 (2) Refusal to submit. Two years if the defendant refused
11 to submit to chemical testing.

12 *c. Third or subsequent offense.* Upon a plea or verdict
13 of guilty of a third or subsequent violation of section
14 321J.2, the department shall revoke the defendant's driver's
15 license or nonresident operating privilege for a period of six
16 years. The defendant shall not be eligible for a temporary
17 restricted license for one year after the effective date of the
18 revocation.

19 *d. Offense involving personal injury.* Upon a plea or
20 verdict of guilty of a violation of section 321J.2 which
21 involved a personal injury, the court shall determine in open
22 court, from consideration of the information in the file and
23 any other evidence the parties may submit, whether a serious
24 injury was sustained by any person other than the defendant
25 and, if so, whether the defendant's conduct in violation of
26 section 321J.2 caused the serious injury. If the court so
27 determines, the court shall order the department to revoke the
28 defendant's driver's license or nonresident operating privilege
29 for a period of one year in addition to any other period of
30 suspension or revocation. The defendant shall surrender to the
31 court any Iowa license or permit and the court shall forward it
32 to the department with a copy of the order for revocation.

33 *e. Offense involving a death.* Upon a plea or verdict of
34 guilty of a violation of section 321J.2 which involved a death,
35 the court shall determine in open court, from consideration of

1 the information in the file and any other evidence the parties
2 may submit, whether a death occurred and, if so, whether the
3 defendant's conduct in violation of section 321J.2 caused the
4 death. If the court so determines, the court shall order
5 the department to revoke the defendant's driver's license or
6 nonresident operating privilege for a period of six years. The
7 defendant shall not be eligible for any temporary restricted
8 license for at least two years after the revocation. The
9 defendant shall surrender to the court any Iowa license or
10 permit and the court shall forward it to the department with a
11 copy of the order for revocation.

12 2. *Revocation or denial period.* If a license or permit
13 to operate a motor vehicle is revoked or denied under this
14 section or section 321J.9 or 321J.12, the period of revocation
15 or denial shall be the period provided for such a revocation
16 or until the defendant reaches the age of eighteen whichever
17 period is longer.

18 3. *Ignition interlock device.*

19 a. Upon a conviction for or as a condition of a deferred
20 judgment for a violation of section 321J.2, the court may
21 order the defendant to install ignition interlock devices
22 of a type approved by the commissioner of public safety on
23 all motor vehicles owned or operated by the defendant which,
24 without tampering or the intervention of another person, would
25 prevent the defendant from operating the motor vehicle with an
26 alcohol concentration greater than a level set by rule of the
27 commissioner of public safety.

28 b. The commissioner of public safety shall adopt rules to
29 approve certain ignition interlock devices and the means of
30 installation of the devices, and shall establish the level of
31 alcohol concentration beyond which an ignition interlock device
32 will not allow operation of the motor vehicle in which it is
33 installed.

34 c. The order to install ignition interlock devices shall
35 remain in effect for a period of time as determined by the

1 court which shall not exceed the maximum term of imprisonment
2 which the court could have imposed according to the nature of
3 the violation. While the order is in effect, the defendant
4 shall not operate a motor vehicle which does not have an
5 approved ignition interlock device installed. This may be in
6 addition to any period of time the defendant is required to
7 install and maintain an approved ignition interlock device
8 under section 321J.17 or 321J.20.

9 *d.* If the defendant's driver's license or nonresident
10 operating privilege has been revoked, the department shall not
11 issue a temporary permit or a driver's license to the person
12 without certification that approved ignition interlock devices
13 have been installed in all motor vehicles owned or operated by
14 the defendant while the order is in effect.

15 *e.* A defendant who fails within a reasonable time to comply
16 with an order to install an approved ignition interlock device
17 may be declared in contempt of court and punished accordingly.

18 *f.* A person who tampers with or circumvents an ignition
19 interlock device installed under a court order while an order
20 is in effect commits a serious misdemeanor.

21 Sec. 6. Section 321J.9, subsection 1, paragraphs a and b,
22 Code 2014, are amended to read as follows:

23 *a. First offense.* One year if the person has no previous
24 revocation under this chapter; ~~and.~~

25 *b. Second or subsequent offense.* Two years if the person
26 has had a previous revocation under this chapter.

27 Sec. 7. Section 321J.9, subsection 2, Code 2014, is amended
28 by striking the subsection.

29 Sec. 8. Section 321J.12, subsection 1, paragraphs a and b,
30 Code 2014, are amended to read as follows:

31 *a. First offense.* One hundred eighty days if the person has
32 had no previous revocation under this chapter.

33 *b. Second or subsequent offense.* One year if the person has
34 had a previous revocation under this chapter.

35 Sec. 9. Section 321J.12, subsection 2, Code 2014, is amended

1 by striking the subsection.

2 Sec. 10. Section 321J.12, subsection 5, Code 2014, is
3 amended to read as follows:

4 5. Upon certification, subject to penalty of perjury, by the
5 peace officer that there existed reasonable grounds to believe
6 that the person had been operating a motor vehicle in violation
7 of section 321J.2A, that there existed one or more of the
8 necessary conditions for chemical testing described in section
9 321J.6, subsection 1, and that the person submitted to chemical
10 testing and the test results indicated an alcohol concentration
11 of .02 or more but less than .08, the department shall revoke
12 the person's driver's license or operating privilege for a
13 period of sixty the following periods of time:

14 a. First offense. Sixty days if the person has had no
15 previous revocation under this chapter, ~~and for a period of~~
16 ninety.

17 b. Second or subsequent offense. Ninety days if the person
18 has had a previous revocation under this chapter.

19 Sec. 11. Section 321J.17, subsection 1, Code 2014, is
20 amended to read as follows:

21 1. If the department revokes a person's driver's license
22 or nonresident operating privilege under this chapter, the
23 department shall assess the person a civil penalty of two
24 hundred dollars. The money collected by the department under
25 this section shall be transmitted to the treasurer of state
26 who shall deposit one-half of the money in the separate fund
27 established in section 915.94 and one-half of the money in the
28 general fund of the state. ~~A temporary restricted license~~
29 ~~shall not be issued unless an ignition interlock device has~~
30 ~~been installed pursuant to section 321J.4.~~ Except as provided
31 in section 321.210B, a temporary restricted license shall
32 not be issued or a driver's license or nonresident operating
33 privilege reinstated until the civil penalty has been paid.
34 A person assessed a penalty under this section may remit the
35 civil penalty along with a processing fee of five dollars to a

1 county treasurer authorized to issue driver's licenses under
2 chapter 321M, or the civil penalty may be paid directly to the
3 department.

4 Sec. 12. Section 321J.17, subsection 3, Code 2014, is
5 amended to read as follows:

6 3. a. The department shall also require certification of
7 installation of an ignition interlock device of a type approved
8 by the commissioner of public safety on all motor vehicles
9 owned or operated by any person seeking reinstatement following
10 a ~~second or subsequent~~ revocation under section 321J.4, 321J.9,
11 or 321J.12. The Unless a longer period of time is required by
12 statute, the requirement for the installation of an approved
13 ignition interlock device shall be for ~~one year from the date~~
14 ~~of reinstatement unless a longer time period is required by~~
15 ~~statute. The one-year period a person is required to maintain~~
16 ~~an ignition interlock device under this subsection shall be~~
17 ~~reduced by any period of time the person held a valid temporary~~
18 ~~restricted license during the revocation for the occurrence~~
19 ~~from which the arrest arose. The person shall not operate any~~
20 ~~motor vehicle which is not equipped with an approved ignition~~
21 ~~interlock device during the period in which an ignition~~
22 ~~interlock device must be maintained, and the department~~
23 ~~shall not grant reinstatement unless the person certifies~~
24 ~~installation of an ignition interlock device as required in~~
25 ~~this subsection. the following periods of time:~~

26 (1) First offense. At least six months from the date of
27 reinstatement if the person has had no previous revocation
28 under this chapter, if any of the following apply:

29 (a) The person submitted to testing and had an alcohol
30 concentration of .08 or more but not more than .15 and an
31 accident resulting in personal injury or property damage
32 occurred.

33 (b) The person submitted to testing and had an alcohol
34 concentration of .15 or more.

35 (c) The person refused to consent to testing in accordance

1 with section 321J.6.

2 (2) Second or subsequent offense. At least one year from
3 the date of reinstatement if the person has had a previous
4 revocation under this chapter.

5 (3) Offense involving a death. At least one year from the
6 date of reinstatement if the person is seeking reinstatement
7 following a revocation under section 321J.4, subsection 1,
8 paragraph "e", for an offense involving a death, regardless of
9 whether the person has had a previous revocation under this
10 chapter.

11 b. The period a person is required to maintain an ignition
12 interlock device under this subsection shall be reduced by any
13 period of time the person held a valid temporary restricted
14 license during the revocation for the occurrence from which
15 the arrest arose, subject to any additional time required
16 pursuant to subsection 4. The person shall not operate any
17 motor vehicle which is not equipped with an approved ignition
18 interlock device during the period in which an ignition
19 interlock device must be maintained, and the department
20 shall not grant reinstatement unless the person certifies
21 installation of an ignition interlock device as required in
22 this subsection.

23 Sec. 13. Section 321J.17, Code 2014, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 4. a. The department shall adopt rules
26 pursuant to chapter 17A requiring a provider of an approved
27 ignition interlock device to submit electronic reports to the
28 department regarding the installation, maintenance, and use
29 of an approved ignition interlock device of a type approved
30 by the commissioner of public safety on all motor vehicles
31 owned or operated by the person seeking reinstatement including
32 instances of tampering, circumvention, or removal of the
33 ignition interlock device. The reports shall include but not
34 be limited to results indicating that the ignition interlock
35 device had detected a level of alcohol concentration beyond

1 which the ignition interlock device will not allow operation of
2 the motor vehicle in which it is installed.

3 *b.* Notwithstanding the provisions of subsection 3, a person
4 seeking reinstatement following a revocation under section
5 321J.4, 321J.9, or 321J.12 shall install and maintain an
6 approved ignition interlock device of a type approved by the
7 commissioner of public safety on all motor vehicles owned or
8 operated by the person seeking reinstatement until the results
9 reported to the department pursuant to paragraph "a" indicate
10 all of the following:

11 (1) The person has adequately maintained and used any
12 required ignition interlock device.

13 (2) For the three-month period immediately preceding the
14 person's application to remove the ignition interlock device
15 or to remove any ignition interlock device restriction on the
16 person's driver's license, the person has not had an event in
17 which the ignition interlock device detected a level of alcohol
18 concentration beyond which the ignition interlock device would
19 not allow the operation of the motor vehicle in which it is
20 installed.

21 *c.* The time periods in subsection 3 shall be extended
22 indefinitely until the person completes at least a three-month
23 period free from events in which a required ignition interlock
24 device detected a level of alcohol concentration beyond which
25 the ignition interlock device would not allow the operation of
26 the motor vehicle in which it is installed.

27 *d.* For purposes of paragraphs "b" and "c", an
28 "event" means an attempt to start a motor vehicle in which
29 an ignition interlock device is installed with a breath
30 alcohol concentration of .04 or above three times within a
31 fifteen-minute period.

32 **Sec. 14. NEW SECTION. 321J.17A Ignition interlock device**
33 **providers — low-income rate costs.**

34 An approved ignition interlock device provider shall not
35 charge more than two hundred fifty dollars for costs associated

1 with the installation, maintenance, and removal of an approved
2 ignition interlock device for a six-month period to any of the
3 following persons:

4 1. A person with an income equal to or less than one hundred
5 fifty percent of the federal poverty level.

6 2. A person who qualifies for programs supporting
7 low-income persons including but not limited to the medical
8 assistance program, the Iowa health and wellness plan,
9 the federal food assistance programs, and any other state
10 or federal benefit assistance program administered by the
11 department of human services.

12 Sec. 15. Section 321J.20, Code 2014, is amended to read as
13 follows:

14 **321J.20 Temporary restricted license — ignition interlock**
15 **devices.**

16 1. *a.* The department may, on application, issue a temporary
17 restricted license to a person whose noncommercial driver's
18 license is revoked under this chapter allowing the person to
19 ~~drive to and from the person's home and specified places at~~
20 ~~specified times which can be verified by the department and~~
21 ~~which are required by the person's full-time or part-time~~
22 ~~employment, continuing health care or the continuing health~~
23 ~~care of another who is dependent upon the person, continuing~~
24 ~~education while enrolled in an educational institution on a~~
25 ~~part-time or full-time basis and while pursuing a course of~~
26 ~~study leading to a diploma, degree, or other certification of~~
27 ~~successful educational completion, substance abuse treatment,~~
28 ~~court-ordered community service responsibilities, and~~
29 ~~appointments with the person's parole or probation officer if~~
30 ~~the person's driver's license has not been revoked previously~~
31 ~~under section 321J.4, 321J.9, or 321J.12 and for any lawful~~
32 purpose if any of the following apply:

33 (1) The person's noncommercial driver's license is revoked
34 under section 321J.4 ~~and the minimum period of ineligibility~~
35 ~~for issuance of a temporary restricted license has expired.~~

1 ~~This subsection shall not apply to a revocation ordered under~~
2 ~~section 321J.4 resulting from a plea or verdict of guilty of a~~
3 ~~violation of section 321J.2 that involved a death except for a~~
4 ~~revocation under section 321J.4, subsection 1, paragraph "c"~~
5 ~~or "e".~~

6 (2) The person's noncommercial driver's license is revoked
7 under section 321J.9 and the person has entered a plea of
8 guilty on a charge of a violation of section 321J.2 which
9 arose from the same set of circumstances which resulted in
10 the person's driver's license revocation under section 321J.9
11 and the guilty plea is not withdrawn at the time of or after
12 application for the temporary restricted license, and the
13 minimum period of ineligibility for issuance of a temporary
14 restricted license has expired.

15 (3) The person's noncommercial driver's license is revoked
16 under section 321J.12, and the minimum period of ineligibility
17 for issuance of a temporary restricted license has expired.

18 ~~b. A temporary restricted license may be issued under this~~
19 ~~subsection if the person's noncommercial driver's license is~~
20 ~~revoked for two years under section 321J.4, subsection 2, or~~
21 ~~section 321J.9, subsection 1, paragraph "b", and the first three~~
22 ~~hundred sixty-five days of the revocation have expired.~~

23 ~~e. b.~~ This subsection does not apply to a person whose
24 license was revoked under section 321J.2A or section 321J.4,
25 subsection 4 or 6, or to a person whose license is suspended or
26 revoked for another reason.

27 ~~d. Following the applicable minimum period of ineligibility,~~
28 ~~a temporary restricted license under this subsection shall~~
29 ~~not be issued until the applicant installs an ignition~~
30 ~~interlock device of a type approved by the commissioner of~~
31 ~~public safety on all motor vehicles owned or operated by the~~
32 ~~applicant in accordance with section 321J.2, 321J.4, 321J.9,~~
33 ~~or 321J.12. Installation of an ignition interlock device~~
34 ~~under this subsection shall be required for the period of time~~
35 ~~for which the temporary restricted license is issued and for~~

1 ~~such additional period of time following reinstatement as is~~
2 ~~required under section 321J.17, subsection 3.~~

3 2. ~~a.~~ Notwithstanding section 321.560, the department may,
4 on application, and ~~upon the expiration of the minimum period~~
5 ~~of ineligibility for a temporary restricted license provided~~
6 ~~for under section 321.560, 321J.4, 321J.9, or 321J.12,~~ issue a
7 temporary restricted license to a person whose noncommercial
8 driver's license has either been revoked under this chapter, or
9 revoked or suspended under chapter 321 solely for violations
10 of this chapter, or who has been determined to be a habitual
11 offender under chapter 321 based solely on violations of
12 this chapter or on violations listed in section 321.560,
13 subsection 1, paragraph "b", and who is not eligible for a
14 temporary restricted license under subsection 1. However,
15 the department may not issue a temporary restricted license
16 under this subsection for a violation of section 321J.2A ~~or~~
17 ~~to a person under the age of twenty-one whose license is~~
18 ~~revoked under section 321J.4, 321J.9, or 321J.12.~~ A temporary
19 restricted license issued under this subsection may allow the
20 person to drive to and from the person's home and specified
21 places at specified times which can be verified by the
22 department and which are required by the person's full-time or
23 part-time employment; continuing education while enrolled in an
24 educational institution on a part-time or full-time basis and
25 while pursuing a course of study leading to a diploma, degree,
26 or other certification of successful educational completion;
27 or substance abuse treatment.

28 3. The department shall not issue a temporary restricted
29 license under this section until any applicable minimum
30 period of ineligibility for a temporary restricted license has
31 expired. If the applicant is under the age of twenty-one, the
32 applicant shall not be eligible for a temporary restricted
33 license for at least sixty days after the effective date of
34 revocation or suspension.

35 ~~b.~~ 4. A The department shall not issue a temporary

1 restricted license ~~issued~~ under this ~~subsection~~ shall
2 ~~not be issued~~ section until the applicant installs an
3 ~~approved~~ ignition interlock device of a type approved by the
4 commissioner of public safety on all motor vehicles owned
5 or operated by the applicant. Installation of an ignition
6 interlock device under this ~~subsection~~ section shall be
7 required for the period of time for which the temporary
8 restricted license is issued, and for such additional period
9 of time following reinstatement as is required under section
10 321J.17, ~~subsection~~ subsections 3 and 4. However, a person
11 whose driver's license or nonresident operating privilege has
12 been revoked under section 321J.21 may apply to the department
13 for a temporary restricted license without the requirement of
14 an ignition interlock device if at least twelve years have
15 elapsed since the end of the underlying revocation period for
16 a violation of section 321J.2.

17 ~~3.~~ 5. If a person required to install an ignition interlock
18 device operates a motor vehicle which does not have an approved
19 ignition interlock device or if the person tampers with or
20 circumvents an ignition interlock device, in addition to other
21 penalties provided, the person's temporary restricted license
22 shall be revoked.

23 ~~4.~~ 6. A person holding a temporary restricted license
24 issued by the department under ~~this section~~ subsection 2 shall
25 not operate a motor vehicle for pleasure.

26 ~~5.~~ 7. A person holding a temporary restricted license
27 issued by the department under this section shall not operate
28 a commercial motor vehicle on a highway if a commercial
29 driver's license is required for the person's operation of the
30 commercial motor vehicle.

31 ~~6.~~ 8. A person holding a temporary license issued by the
32 department under this ~~chapter~~ section shall ~~be prohibited from~~
33 operating not operate a school bus.

34 ~~7.~~ 9. Notwithstanding any provision of this chapter to
35 the contrary, the department may issue a temporary restricted

1 license to a person otherwise eligible for a temporary
2 restricted license under this section, whose period of
3 revocation under this chapter has expired, but who has not met
4 all requirements for reinstatement of the person's driver's
5 license or nonresident operating privileges.

6 ~~8.~~ 10. A person who tampers with or circumvents an ignition
7 interlock device installed as required in this chapter and
8 while the requirement for the ignition interlock device is in
9 effect commits a serious misdemeanor.

10 Sec. 16. APPLICABILITY. The provision of this Act enacting
11 section 321J.17, subsection 3, paragraph "a", subparagraph (1),
12 applies to violations committed on or after July 1, 2014.